The Intelligencer.

FREW, CAMPBELL & HART, PROPRIETORS.

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WHEELING, FEBRUARY 8, 1889.

IF, in the Atkinson-Pendleton contest, the Republican Congress should decide Mr. Pendleton has no right to his seat until the contest is decided—that his bare majority on the face of the returns (whether legally or illegally secured) is not a prima facie title to his seat, how the Democratic organ here would howl about Republican revolutionists; and yet this is just the course it advocates in the Goff-Fleming contest.

ACCORDING to the theory of the Democratic position at Charleston any Governor-elect, no matter if he were to have a majority of twenty thousand upon the face of the returns, could be prevented from taking his seat. A candidate of an opposing party who had not received a dozen votes in the State would only have to file a notice of contest, attacking votes in each county, to prevent the returns from all of them being opened and published, and this could be done with regard to every State office. What a fine state of affairs we would have; and this is the logic of the position of the Democratic "constitutional lawyers" at Charleston! Will any one undertake to say in all sincerity that there is either justice or right in such a position?

Can't Keep Track of Them.

The Democrats at Charleston change their views as to the meaning of the constitution so often that it is hard to keep the run of them. Up to the present writing they stand as follows:

1. The result shall not be declared.
2. The returns shall not be published.
3. The returns shall be read but not entered on the journal.
4. The returns, when attacked, shall not be read at all.
5. The returns thus far read shall be considered as not having been read.
6. A protest from the minority has no right to be considered nor recorded.
7. ——?

We leave a blank for another possible "strict construction" at variance with all the others, which may occur before this paper reaches its readers. They can fill it out when they receive the news.

The Cap Sheaf.

The action of the Democratic majority in the Legislature yesterday in voting not to allow the Republican protest to go on the record was unprecedented and revolutionary. It was an act worthy of a band of conspirators who are determined upon a line of procedure at variance with every rule of decency and law, and equally determined that they will never allow to go on the public record the story of the false position they have assumed.

The action caps the climax of the outrages upon the constitution and the people. Not in all history has a bolder or a more inexcusable act ever been committed by any party, in its most desperate efforts to accomplish an unholy end.

The Democrats were not asked to endorse the protest, but to permit it to go on the record as a part of the proceedings.

It is not at all surprising that the situation approaches nearly to revolution. It will not be surprising if the people of this State rise up in their majesty and summarily call to account their representatives who have been guilty of the series of crimes of which this is the worst.

To say that the protest of a minority against the act of a majority shall not go upon the record of any parliamentary body is to suppress a right of the minority which the Constitution guarantees to it.

The honest people of West Virginia will hide their faces in shame when they hear of this crowning infamy of all the infamies that have recently blackened the good name of their State.

Concerning "Incendiaries and Revolutionists."

The Wheeling organ of the Democratic party vociferously protests against what it is pleased to call the "incendiary language" of the Republican press in discussing the revolutionary conduct of the Democratic majority in the Legislature. No incendiary language has been indulged in, unless the plain declaration that the honest people of West Virginia will not quietly submit to see the fundamental law of the State trampled under foot can be so considered.

THE INTELLIGENCER has never advocated a revolutionary step. It early took the position, and consistently maintained it, that General Goff, having received a plurality of the votes cast for Governor, is entitled to be declared the Governor-elect as *commanded* by the Constitution; that the Democratic majority having refused to obey the mandate of the Constitution in this regard is guilty of a revolutionary act; that the whole proceeding at Charleston is contrary to law and precedent; that, notwithstanding all this, General Goff is entitled to be sworn in as Governor on the 4th of March, unless it shall be decided before that time, in accordance with the law, that he is not entitled to the seat; that Judge Fleming's contest of General Goff's election should be pursued in the manner prescribed by the law, and that pending that contest the man having the majority on the face of the returns shall be considered the legally elected Governor. If this is incendiary talk, the Democratic organ may make the most of it. It is the side of justice, of right and of the Constitution, and all the efforts of the Democratic majority in the Legislature to contort the language of the Constitution cannot avail to make it anything else.

The Democratic organ blusters about the Republicans carrying the game of politics too far because they do not submissively swallow the dose of revolutionary medicine the Democratic majority would administer to them. It denounces as an outrage on the State that Republicans should dare to lift their voices against the high and mighty "constitutional lawyers" who have taken it into their heads that the Constitution does not mean what it says; that the language, "*shall* open and publish the returns," may be construed in as many ways as will suit their partisan purpose.

It matters not that this majority of "constitutional lawyers" have changed their position five times since the debate in the joint assembly began, and that each time they have reversed themselves and made themselves the laughing stock of all the fair-minded lawyers and citizens of the State. It matters not that during this whole farce, when the Democratic side has distinguished itself by some extra fine ground and lofty tumbling, the Republican side has consistently maintained but one position. It matters not that distinguished Democratic lawyers, and leading Democratic journals of the country, have taken the Republican position, and have denounced the tactics of their party as unlawful and revolutionary—still it is treason for a Republican to enter his protest and to say boldly that he will not submit quietly.

Will the able "constitutional lawyer" who writes the alleged editorials of the Democratic organ give us his opinion of Judge Ferguson's opinion? Judge Ferguson is the peer of any lawyer in the State, if not in the country, and as such enjoys a national reputation. He is a Democrat. He takes the Republican position that the Democrats have violated the fundamental law of the State. Is he, too, a "demagogue" and a "blusterer?" Other Democratic leaders and Democratic lawyers have taken the same position. There are some, we are advised, in the Legislature, who have done so, but their tongues are tied by caucus obligations, and through a false sense of honor, they imagine themselves prevented from voting their honest sentiments.

Judge Ferguson and other distinguished Democrats have warned their party that it is digging its grave by pursuing its present tactics. Are they revolutionists?

It is amusing to see the Democratic organ each day declare that the "contest is being carried on properly and according to a *strict* construction of the constitution." What in the Democratic mind constitutes "*strict* construction?" Is it an adherence to the letter and the spirit, or is it the adoption of a wide latitude which permits them to attach to words meanings that would make Noah Webster wonder if, after all, his life's work was a failure? Does a strict constructionist change his views as to the meaning of the constitution five times within three days? Is a party strictly construing the constitution when it declares one day that the constitution demands of it to do a certain thing, and the next day vows that just the opposite thing is right?

Frankly, are not the Democratic "constructionists" (more properly, "destructionists") at Charleston making themselves ridiculous before the eyes of the world, and the everlasting laughing-stock of the generations of lawyers yet to come? And is not the organ of a party gaining the unenviable reputation of a political contortionist when it has not the manliness to acknowledge that its party leaders are cutting a laughable figure and attempts to follow them, which involves the changing of its views on a question of party policy and constitutional law at least once every twenty-four hours?

Seriously speaking, the INTELLIGENCER does not believe that General Goff will be obliged to wade through blood to take the seat to which the people have elected him. It does believe, however, that if the contest is not decided, as the law prescribes it shall be decided, before the 4th of March in Judge Fleming's favor, General Goff, being entitled to do so, will take the oath of office and serve as Governor until the matter is determined either for or against him, unless his friends, who comprise the people who elected him, desire him to do otherwise. This, as the INTELLIGENCER's Charleston dispatches have said, is a matter for General Goff and his friends to seriously consider. This serious consideration might result in confirming the present determination of General Goff and his friends to take the seat, as he would be clearly entitled to do.

While such a course would involve the State in political turmoil, the INTELLIGENCER has never said it believed that it would cause bloodshed. No one desires that, and General Goff is the last man who would in any manner encourage it; nor do we believe Judge Fleming would countenance it.

The Democratic revolutionists who are playing their desperate game at Charleston would scarcely go to the end of resorting to armed force to prevent the Republican Governor-elect from taking his seat pending the contest. They know as well as anybody that public sentiment would not sustain them in such a course. They realize fully that the members of their own party are not unanimous in their endorsement of the policy they are now pursuing and could scarcely hope for a united support in such an undertaking. But if they should so resist, then General Goff would not shrink from the duty that would be his under the circumstances.

THE INTELLIGENCER has never, and does not now, advocate anything that would precipitate violence; but the INTELLIGENCER advocates right and justice, and believes that the Constitution and the law should be sustained, no matter what the consequences. It believes that General Goff and his friends will decide upon the wisest course, and that it will be as consistent and lawful as their policy has been up to this time.

There are but two sides to this question, a right and a wrong side. The Republicans firmly believe they are right. The difficulty the Democrats had in fixing upon a position is evidence that they have little faith in the justice of their cause.

Asking Too Much.

St. Paul Pioneer Press.

The chef of a Chicago restaurant has the gall to apply to General Harrison for the position of steward of the White House. Come off, Chicago shall not have the Chief Justiceship and lord of the White House scullery also.

UNCERTAINTY may attend business ventures and enterprises, but it never attends the prompt administration of Dr. Bull's Cough Syrup. Price 25 cents.

"MILE-END" Crotchet has no equal.

THE GUBERNATORIAL COUNT.

A Man Who Voted Against Goff Speaks for Right and Justice.

To the Editor of the Intelligencer.

SIR: The Constitution imposes a duty on the Legislature irrespective of party, and that duty is to count the vote for Governor and declare the result on or before a certain time named. The question then arises: Are there any causes that will excuse the Legislature from performing this duty? If there are they must be such causes as are plainly deducible from the language and intent of the Constitution. Will fraudulent voting charged but not proven; will insurrection, or such natural disturbances as may prevent the holding of an election in some locality; will pestilence or any natural cause that would prevent the people in a congressional district from voting, or from returning their votes, excuse the counting of the vote in the time prescribed? Not at all. And why not? For the simple reason that a Governor in contemplation of law is a prime, paramount necessity, and that Governor chosen by the people, or a majority of those who vote with fraudulent votes, or rather votes judicially charged to be fraudulent, excuse the count, or rather a delay of the count, certainly, provided the count is not delayed beyond the time named for the count? The question then arises: How is the fraud to be established and in what time? Upon this question there are many diverse opinions among those whose judgments are influenced by party passions.

Will a mere charge of fraudulent voting excuse the count? Certainly not. For no presumption of guilt can be heard against any man; for every one is innocent until proven guilty under the forms of law. Nor does it matter whether the charge of fraud comes from the indictment of a grand jury or the report of a committee of the Legislature. Still the man is innocent in the eye of the law until proven guilty, and the Legislature must so treat him. But if a voter is proven guilty of casting an illegal vote for a particular candidate his vote should be counted out, not otherwise. No constitutional lawyer will say to the contrary. If this be not the true construction of the constitution, then comes anarchy. Then the Legislature itself becomes more criminal in defeating the will of the people than the fraudulent voter.

But how long can the Legislature delay the count and declare the vote? I say emphatically, not a moment longer than the time named in the Constitution. The courts of the States and of the United States have a right to call special terms, and when the public good requires it, it is their duty to do so. If they fail, then the courts are derilect in their duty. The courts being derelect in their duty, the Legislature not enlightened by the courts as to the guilt or innocence of the voter charged with fraudulent voting, and the candidate voted for, must do its duty and leave the responsibility for the delay on the courts. Were this not so, every Gubernatorial or other election might be defeated by fraudulent charges against voters, and the Legislature become the dupe of false accusations.

The fundamental principle is, that the will of the people, expressed under the forms of law, whether through this constitution or by their ballots must be obeyed, and held sacred, and whenever that will is made known on the face of the returns, it is *prima facie* true, and must be so taken and received, unless proven to the contrary before the day fixed for the count by convicting voters for fraudulent voting for this or that candidate elected on the face of the returns. I did not vote for General Goff. It matters not why. I am speaking for justice and against anarchy, not for General Goff. MONTECELLO.

Charleston, W. Va., Feb. 3.

The merchant who swindles his customers and has his employe in the secret is forever thereafter a coward.

DIED.

FAIR—On Thursday, February 7, 1889, at 9:40 a. m., CATHARINE, wife of John H. Fair, aged 65 years.

Funeral from the residence of her son-in-law, Asle McCulley, No. 41 Thirteenth street, on Saturday afternoon at 2 o'clock. Friends of the family are invited. Interment at Peninsula Cemetery.

"She sleeps in Jesus."

GACHWINDTNER—On Thursday, February 7, 1889, at 12:40 o'clock a. m., BARBARA GACHWINDTNER, in her 62d year.

The funeral will take place from her late residence, No. 3610 Jacob street, Saturday morning, February 9, at 9 o'clock. High Requiem MASS at the Church of the Immaculate Conception. Friends of the family are invited to attend. Interment at Mt. Calvary Cemetery.

CHARNOCK—On Thursday morning, February 7, 1889, at 8:30 o'clock, JENNIE, wife of Archie Charnock, in her 48th year.

Funeral notice hereafter.

Trustee's Sale.

TRUSTEE'S SALE OF TRIADELPHIA PROPERTY.

By virtue of a deed of trust made by Jane Schneider to J. J. Woods, trustee, bearing date on the third day of August, 1885, and recorded in the office of the Clerk of the County Court for Ohio County in Deed of Trust Book No. 22, page 346, we, the undersigned, will proceed to sell, at public auction, at the north door of the Court House of Ohio County, on

SATURDAY, FEBRUARY 2, 1889,

commencing at 10 o'clock a. m., the following described property, that is to say: All that certain parcel of land situated in Triadelphia District, Ohio County, West Virginia, known as Knoxfield, and containing eleven (11) acres more or less, and which is bounded as follows: Beginning at a locust tree at the bridge across Little Wheeling Creek near the town of Triadelphia; thence down said creek to the forks; thence down Wheeling Creek to Hervey's line; thence with Hervey's line westward to the railroad; thence up the railroad to Melton's line, and thence with Melton's line to the place of beginning.

Excepting, however, from the public sale under the aforesaid deed of trust the two following described parcels of land, being parts of the said tract hereinbefore described and known as Knoxfield:

First—Beginning at a stake at the northwest corner of the piece of ground now occupied by H. C. Hunter as a brickyard; thence north 67½ east with the line of the Hempfield Railroad 4.56 poles to a stake; thence south 8° east 31.8 poles to the middle line of Wheeling Creek; thence north 88°, west with the middle line of said creek 6 poles to the east line of said brickyard, and thence north 4°, west with the east line of said brickyard 29 poles to the place of beginning, containing in all one (1) acre more or less.

Second—Beginning at the point where the lands of Henry Hervey and the Pittsburgh, Wheeling & Baltimore Railroad (formerly the Hempfield Railroad) join the tract of land known as Knoxfield, thence along the line of the said railroad to the place where Schilling's line intersects the line of the said railroad; thence with said Schilling's line to Little Wheeling Creek; thence down said creek to the line of said Henry Hervey; thence with said Hervey's line to the place of beginning, containing in all three and one-half acres (3½) more or less.

TERMS OF SALE.—One-half, or as much more as the purchaser may elect to pay, cash in hand on day of sale, balance, if any, in two equal installments payable in one and two years respectively from the day of sale, the purchaser to give his notes bearing interest from the day of sale, payable annually, for the said deferred installments, and to give a deed of trust on the said property duly acknowledged and recorded, to secure the payment of the said notes.

J. J. WOODS, Trustee.
BY HOLT & HALL, Attorneys. ja19-7

The above sale has been postponed until SATURDAY, February 16, at 10 o'clock a. m., at the front door of the Court House of Ohio county. J. J. WOODS, Trustee.
FEBRUARY 4, 1889. fe4-7

Assignee Sales.

ASSIGNEE'S SALE OF VEHICLES, MACHINERY AND STOCK.

By virtue of a deed of assignment made on the 22d day of December, 1888, and recorded in the office of the Clerk of the County Court of Ohio County, West Virginia, in Record Book No. 37, folio 556, by David Kull, Jr., and Mary D. Smith, partners trading and doing business under the firm name of David Kull, Jr., & Co., to the undersigned, I will offer at public sale, on the premises, No. 2110 Main street, in the city of Wheeling, W. Va., all the stock of Carriages, Buggies, Wagons, Sleighs, finished and unfinished; also, all the Machinery, Tools, Implements, Paints, Varnishes, and material of every description belonging to the said David Kull, Jr., & Co., and contained in the premises occupied by them as a Carriage Factory, No. 2110 Main street, in the city of Wheeling, W. Va. said public sale to commence at 10 o'clock a. m. on TUESDAY, FEBRUARY 12, 1889, and will be continued from day to day until all the property aforesaid is disposed of, unless same or any part thereof, is disposed of at private sale, before that date.

There is in all about forty vehicles of various kinds to be sold, and an opportunity will be offered parties desirous of purchasing to inspect the stock, from 2 o'clock to 4 o'clock p. m. each day (Sunday excepted) for one week before day of sale.

TERMS OF SALE—CASH.

J. V. L. RODGERS, Assignee.
W HALLER, Auctioneer. ja24